HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 498 of 2007

Between:

The Chief Engineer, N.S. Project,
Nagarjunasagar, Nalgonda District.

... Appellant

And

Raghuram Reddy & others

... Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri A. Satya Prasad,
Special Government Pleader

September 24, 2007

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 15.02.2007 passed by the learned Single Judge in WVMP.No.270 of 2006 in WPMP.No.2477 of 2006 in Writ Petition No. 2042 of 2006.

Background Facts:

In the year 1972, the State Government sanctioned 18 Lift Irrigation Schemes through which water of Nagarjuna Sagar Dam was to be distributed to various districts of the State. As per the scheme, the State Government was to bear 1/3rd of the expenditure and the remaining expenditure was to be borne by the beneficiaries. The Chief Engineer, Nagarjuna Sagar Project entered into separate agreements with co-operative societies, who undertook the responsibility of operation and maintenance of the water channels. In

1982, the Government took over all the Schemes and handed over the same to APSIDC Ltd. for their renovation, operation and maintenance on agency basis. The expenses incurred by APSIDC Ltd. towards renovation and maintenance including wages of the workers were released from Nagarjuna Sagar Project funds. In 1996, the Government decided to hand over 19 Co-operative Lift Irrigation Schemes to the farmers' co-operative societies. The workers who were employed in the scheme were not paid wages for several months. Therefore, the Lift Irrigation Employees Union, of which they were members, resorted to strike and raised demands for payment of wages and regularisation of the workers. The dispute raised by the Union was referred by the State Government under Section 10(1)(c) of the Industrial Disputes Act, 1947 (for short, 'the Act'). The same was registered as I.D.No.162 of 1999. By an award dated 8-3-2002, Labour Court-III, Hyderabad declared that the workers of 18 Lift Irrigation Schemes, who were on the pay rolls as on 24.9.1996 are entitled to wages as per the Standard Scheduled Rates and the State Government is liable to arrange for payment of wages till their services are terminated. The issue of regularisation was left open and the Union was given liberty to approach appropriate forum for relief.

The appellant challenged the award in Writ Petition No.10920 of 2002. While admitting the writ petition, the learned Single Judge passed interim order dated 6.11.2002 in WPMP.No.13420 of 2002, whereby he stayed the award of the Labour Court subject to the condition of deposit of 50% of the awarded amount. Writ Appeal No.1336 of 2003 preferred by the appellant against the interlocutory order of the learned Single Judge was disposed of by the Division Bench on 25.7.2003 by directing that the award shall remain stayed subject to the condition of depositing 25% of the liability within eight

weeks. The relevant portion of that order is extracted below:

"……We allow the appeal, modify the impugned order and direct that there will be stay of the award in I.D.No.162 of 1999, dated 5.3.2002 subject to the condition of the appellant depositing 25% of the liability under the award within a period of eight weeks from today and on deposit of such amount the same will be released to the workmen only on their furnishing adequate security to the satisfaction of the Labour Court before which execution proceedings are pending, for refund of the amount, in the event of the award being set aside. In view of the fact that we are modifying the impugned order by allowing the appeal, Execution Petition No.20 of 2002 in I.D.No.162 of 1999 shall stand dismissed and attachment, if any effected pursuant to the warrant issued by the Labour Court shall stand withdrawn and warrant shall be called back unexecuted."

By an order dated 3.2.2004 passed in WPMP.No.2161 of 2004, the learned Single Judge directed the writ petitioner (the appellant herein) to pay the members of the Union the benefit of wages in terms of Section 17-B of the Act.

On account of non-compliance of the aforementioned order, the workers filed E.P.No.2 of 2005, which was disposed of by the learned Presiding Officer of the Labour Court vide order dated 1.12.2005. The appellant challenged that order in Writ Petition No.2042 of 2006. While admitting the writ petition, the learned Single Judge passed an interim order on 7.2.2006 and stayed the order of the Labour Court.

On notice, the respondents filed WVMP.No.270 of 2006 for vacating the ad interim order. By the order under challenge, the learned Single Judge confirmed the interim order dated 07.02.2006 passed in W.P.M.P.No.2477 of 2006 in Writ Petition No.2042 of 2006, subject to the condition that the writ petitioner (the appellant herein) shall deposit half of the amount awarded by the Labour Court in E.P. No. 2 of 2005 in M.P. No. 32 of 2004 (I.D.No.162 of 1999) with liberty to the workman to withdraw the amount without furnishing security.

Shri A. Satya Prasad, learned counsel for the appellant argued that the Labour Court did not have the jurisdiction to entertain E.P.No.2 of 2005 for securing implementation of order dated 03.02.2004 passed by the learned Single Judge in WPMP. No.2161 of 2004 in Writ Petition No.10920 of 2002 and, therefore, the direction given by the learned Single Judge for deposit of 50% amount with liberty to the workers to withdraw the same is liable to be set aside.

In our opinion, the order under challenge does not suffer from any jurisdictional infirmity or error apparent, which may justify interference with the discretion exercised by the learned Single Judge to modify the ex parte order. It is not in dispute that the appellant did not challenge order dated 03.02.2004 passed by the learned Single Judge in WPMP.No.2161 of 2004, whereby he directed implementation of the provisions of Section 17-B of the Act. Therefore, the workmen became entitled to be paid an amount equivalent to last drawn wages and there does not appear to be any legal basis for denying them the benefits flowing from order dated 3.2.2004. What the Labour Court has done by entertaining E.P.No.2 of 2005 and passing order dated 1.12.2005 is nothing except to ensure the implementation of the direction given by the learned Single Judge in WPMP.No.2161 of 2004 to pay the workers wages in terms of Section 17-B of the Act.

In the premise aforesaid, we hold that the learned Single Judge did not commit any error by directing the appellant to deposit 50% of the amount awarded by the Labour Court.

In the result, the appeal is dismissed. However, it is made clear that this order shall not preclude the appellant and the State Government from negotiating settlement with the workmen so that all the pending disputes may be amicably resolved.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

September 24, 2007

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